

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.3698 OF 2007

Shri Shridhar Budhaji Neware
& Ors. ...Petitioners

Versus

Shri Yashwant Budhaji Neware ...Respondent

.....

Mr.Surel M.Sabrad for Petitioners.

None for Respondent.

.....

CORAM: A.M.KHANWILKAR, J.

JULY 6, 2007.

P.C.

1. On the finding of fact reached by the Appellate Court that Defendant No.1 was in exclusive possession of the disputed property, no fault can be found with the ultimate conclusion reached by the Appellate Court in vacating the injunction against Defendant No.1 from obstructing Petitioners' common possession with regard to such property.

2. No material has been placed before me to doubt the correctness of the finding of fact recorded by the Appellate Court. The only argument is that the Trial Court has recorded a contrary finding of fact. That does not take the matter any further. Since the order passed by the Trial Court was appellable order and the Appellate Court on analysis of the material on record, has recorded finding of fact that Defendant No.1 is in exclusive possession of the disputed property, that finding of fact will bind this Court unless such finding of fact were to be perverse or manifestly wrong. In any case, that finding is recorded at the interlocutory stage of the proceedings. The parties will have to go for trial and establish their respective stand-point by producing tangible material to substantiate their claim.

3. For the present, suffice it to observe that no fault can be found with the order passed by the lower Court which is interlocutory. Hence, dismissed.

A.M.KHANWILKAR, J.